IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14392 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SPAN DYE STUFF INDUSTRIES LTD

Versus

ASSISTANT PROVIDENT FUND COMMISSIONER

Appearance:

1. Special Civil Application No. 14392 of 2004

MRS YOGINI V PARIKH for Petitioner No. 1

MR NIRAL R MEHTA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 20/12/2004

ORAL JUDGEMENT

Rule. Learned advocate Shri Niral Mehta waives services of rule on behalf of the respondent. At the joint request of the learned advocates appearing for the

parties, petition is taken up for final disposal today.

2. In this petition, the petitioner has challenged the order dated 18th May 2004 passed by the respondent under section 7A of the Employees Provident Fund and Miscellaneous Provisions Act ("the said Act" for short) as also the order dated 4.8.2004 passed under section 7-B of the said Act rejecting the review filed by the petitioner.

3. Though it is true that the petitioner was given sufficient opportunity to participate in the inquiry proceedings under section 7-A of the said Act, it is stated that the petitioner unit was closed since long and the notices which might have been issued by the respondent were not brought to the notice of the officers of the petitioner Company. It is also submitted on behalf of the petitioner that the petitioner had discharged all its liabilities under the said Act and there was sufficient material on record to establish that full payments were made. By order dated 2.11.2004 while issuing notice, this Court had noted that the petitioner was depositing an amount of Rs.48,000/= with the respondent. The Court had also taken note of the submission that another Rs.48,000/= will be paid in three equal monthly installments.

4. Considering the submissions made, especially the contention that the petitioner was a closed unit and that all the provident fund liabilities were duly discharged and that there was sufficient evidence on record to establish this, it would appropriate to permit the petitioner to bring all these facts to the notice of the respondent. For the said purpose, the impugned orders dated 18.5.2004 and 4.8.2004 are quashed. The matter is remanded to the respondent for fresh consideration and disposal on merits after hearing the petitioner. This is conditional upon (i) the petitioner depositing the remaining amount of Rs.48,000/= as assured to this court on 2.11.2004 and (ii) the petitioner paying cost of Rs.5,000/= to the respondent.

5. With the above directions, the petition is disposed of. Rule is made absolute to the above extent.

6. The request of the petitioner for lifting the prohibitory orders against operating the bank accounts of the petitioner cannot be accepted. However, if the petitioner cooperates with the respondent in proceeding further with the inquiry, the same may be disposed of as expeditiously as possible and preferably within a period

of two months from the date of receipt of a copy of this order.

(Akil Kureshi, J.)
(vjn)